

Remarks

Claims 1-10 and 21 are pending in the present application. Claims 1, 3, 6 and 21 have been amended. Claim 2 has been cancelled.

1.) Rejections for Obviousness under 35 USC §103:

Claims 1-10 and 21 are rejected for Obviousness under 35 U.S.C. §103 for obviousness. Claims 1 and 21 are independent. Claims 3-10 depend from independent Claim 1.

a.) Claims 1 and 21:

The Examiner has rejected Claims 1-3, 6, 8- 10 and 21 as being obvious over US Patent 6,509,841 (Colton) in view of US Patent 5,963,551 (Minko). Specifically, the Examiner states that Colton teaches “receiving ordered data signals from the meter” while Minko teaches “analyzing the data signals to detect a missing signal” and “compensating for the missing signal by adding a predetermined value to a sequence counter”. The Examiner concludes that it would be obvious to one of ordinary skill in the art to combine Colton with Minko.

In response, Applicant has amended Claims 1 and 21 to further claim the detection of a missing data signal “by calculating a temporary variable based on a present data signal and a previous data signal in the sequence of ordered data signals”. Support for this amendment is found in Paragraph 0052, which states: “[a]n error in the form of a missing data bit is detected by calculating a temporary 2-bit binary variable called ‘SUBADD’ ” (*emphasis added*). Part of this text comes from the language of cancelled Claim 2. However, the “temporary” qualifier for the variable is a new limitation that was not previously recited.

In contrast, Minko does not disclose, teach or suggest the use of a temporary variable to detect a missing data signal. Instead, Minko states that “[i]n general, every packet delivered to the receiver has its index in the packet header, or packet index field 265. The receiver side stores the index of the previously arrived packet and, when the

next packet arrives, compares the index of the newly arrived packet with that of the prior packet. If no packets have been lost, the index will differ only by one.” *Column 7, Lines 6-12*. Minko detects missing data by comparing the packet index in the packet header. The index is an integral part of the packet. It exists before and after the data transmission. In other words, it is not temporary but instead is maintained as part of the data packet.

Consequently, it is clear from these passages that Minko fails to teach the use of a temporary variable to detect a missing data signal. Therefore, the present rejection fails for at least these reasons.

b.) Claims 3-5 and 7-10:

The Examiner has rejected Claims 3 and 6-10 as being obvious over Colton in view of Minko. Since Claims 2, 3, and 6-9 are dependent from independent Claim 1, this rejection is overcome for at least the reasons mentioned previously in Section 1.a.

c.) Claim 6:

Since Claim 6 is dependent from independent Claim 1, this rejection is overcome for at least the reasons mentioned previously in Section 1.a.

Additionally, the Examiner states in his rejection that Minko “does not explicitly state the variable is calculated by subtracting a binary value of the previous data signal from the binary value of the present data signal”. However, the Examiner states that it would have been obvious to a person of ordinary skill in the art at the time of the invention to subtract a binary value of the previous data signal from the binary value of the present data signal since the data index in a binary number.

In response, Applicant notes that 37 C.F.R. §1.104(d)(2) states:

When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

In accordance with this rule, Applicant requests that the Examiner submit an affidavit stating that based on her personal knowledge, it is well known to one of ordinary skill in the art to subtract a binary value of the previous data signal from the binary value of the present data signal. In the alternative, Applicant requests that this rejection be withdrawn.

2.) Conclusion:

In view of the preceding remarks, all of the outstanding rejections have been overcome. A notice of allowance for all pending claims is respectfully requested. Please apply any additional fees or credits to Deposit Account #: 50-0954, Reference #: N2215-63142.

Respectfully Submitted,

<u>/davidmixon/</u>	<u>06/10/2008</u>
David E. Mixon	Date
Reg. No. 43,809	

Bradley Arant Rose & White LLP
200 Clinton Ave. West, Suite 900
Huntsville, AL 35801-4900

Telephone: (256) 517-5100
Facsimile: (256) 517-5200